(19)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Misc. Appeal No.814 of 2005

CORAM: Hon'ble Shri S.R. Nayak, CJ
& Hon'ble Shri Dilip Raosahep Deshmukh, J.

Appellant Clamaint	:	Shravan Kumar Yadav, s/o late Shri Bandhan Ram Yadav, aged about 25 years, R/o Purani Basti, Katghora, Tahsil - Katghora, District-Korba (C.G.)
		Versus
Respondent Drivers	:	1. Shri Ganesh Ram Rathore, S/o Shri Rambharose, aged about 26 years, R/o Village-Jharna Chowky-Baradwar, At present R/o Darri Fetrilizer, Police Station Darri, District Korba (C.G.)
Respondent Owner	:	2.Shri Satish Kumar Laxman, S/o Shri Laxman, R/o Quarter No.909, Sector-5, Balco Nagar, Distt. Korba (C.G.)
Respondent Insurance Company	:	3. United India Insurance Company Ltd., Branch Office, Mdedhekar Complex, Rajendra Nagar Bilaspur (C.G.)

Shri K.K. Singh, Counsel for the appellant.

Shri Srikumar Agrawal, Counsel for respondent No.3.

ORAL ORDER
(Passed on 2nd January 2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

1. In this appeal preferred by the claimant for more compensation, the following are the two grounds urged in support of the appeal:

i. That the Motor Accidents Claims Tribunal is not justified in taking the age of the deceased on the date of the accident as 50 years and in fact the age of the deceased was 47 - 48 years.

ii. That even accepting the age of the deceased as 50 years on the date of the accident, even then, the M.A.C.T. ought to have applied multiplier 13 instead of 12 for assessing the loss of dependency.

These are the only two grounds urged by the learned counsel for the appellant.

2. We do not find any merit in the first contention urged by the learned counsel for the appellant. The oral evidence adduced in the case to which reference is made by the M.A.C.T. in paragraph 18 would go to show that there is no consistency in the oral evidence of the witnesses with regard to the age of the deceased. It varied from 47 - 48 years to 60 - 65 years. In the premise, according to us, the M.A.C.T. quite rightly has made a guess work and taken the age of the deceased as 50 years.

3. We, however, find the force in the second contention of the learned counsel for the appellant. Even taking the age of the deceased on the date of the accident as 50 years, in terms of the second schedule, the appropriate multiplier to be applied for assessing the loss of dependency is multiplier 13 and not multiplier 12 as has been done by the M.A.C.T. If we apply multiplier 13, the total loss of dependency would come to Rs.2,23,600/- (17,200 x 13).

4. In the result and for the foregoing reasons, we allow the appeal in part and we award a sum of Rs.2,23,600/- towards loss of dependency. The impugned award shall stand modified accordingly. In all other respects, the impugned award shall stand unaltered. No costs.

Sd/-
Chief Justice

Sd/-
Dilip RaoSaheb Deshmukh
Judge

Anjani